



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/717,433

11/20/2000

Lou Leonardo

2043.023US1

9413

49845

7590

02/06/2008

SCHWEGMAN, LUNDBERG & WOESSNER/EBAY

P.O. BOX 2938

MINNEAPOLIS, MN 55402

EXAMINER

KESACK, DANIEL

ART UNIT

PAPER NUMBER

3691

NOTIFICATION DATE

DELIVERY MODE

02/06/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@SLWIP.COM

<b>Office Action Summary</b>	<b>Application No.</b> 09/717,433	<b>Applicant(s)</b> LEONARDO ET AL.	
	<b>Examiner</b> Daniel Kesack	<b>Art Unit</b> 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 22-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 22-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/7/2007</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 7, 2007 has been entered.

### ***Status of Claims***

2. Claims 1-20, 22-34 are currently pending.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3691

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1, 4, 5, 7, 8, 11, 12, 14, 15, 18, 19, 24, 25, 27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaidyanathan et al, U.S. Patent Application Publication No. 2004/0059596, in view of Ojha et al., U.S. Patent No. 6,598,026.

Claims 1, 7, 8, 14, 15, 27, 28, Vaidyanathan discloses an automated online dispute resolution system and method comprising facilitating a submission of a complaint to a network-based facility (paragraphs 12, 42, and 56), the complaint being related to a failed transaction that is not completed by a party (paragraph 6), facilitating resolution of the complaint (paragraphs 60-63), determining that the complaint is not resolved (paragraphs 65, 69), and updating a record associated with the failed transaction that is not completed by the party (paragraph 11, lines 27-34).

Vaidyanathan also teaches the network based facility includes a network-based online auction facility and the transaction includes a network-based online auction transaction (paragraphs 39, 40).

Vaidyanathan fails to explicitly teach the updating of the record including incrementing a count of failed transactions not completed by the party.

Ojha discloses a system and method for brokering transactions, including the tracking of a buyer's reputation (column 3 lines 22-43). Ojha discusses a reputation metric consisting of the number of offers honored less the number reneged. According to this embodiment, there exists a count of offers reneged by a buyer, and such a reneging would constitute a failed transaction not completed by the buyer. It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Vaidyanathan to include the count of failed transactions because Vaidyanathan refers generally to keeping records on past performances of a party in order to maintain the integrity of transactions, and Ojha is in the same field of endeavor, and teaches consequences for not completing transactions.

Claims 4, 11, 18, 24, Vaidyanathan teaches providing an interface to facilitate input of information for the complaint (figures 5, 6).

Claims 5, 12, 19, 25, Vaidyanathan teaches notifying the party that the complaint has been submitted against the party (paragraph 84).

6. Claims 2, 3, 6, 9, 10, 13, 16, 17, 20, 22, 23, 26, 29-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaidyanathan and Ojha as applied to claims 1, 4, 5, 7, 8, 11, 12, 14, 15, 18, 19, 24, 25, 27, and 28 above, and further in view of

Art Unit: 3691

eBay's Website (www.ebay.com) on October 14, 1999, as viewed on the Wayback Machine (www.archive.org), hereinafter "eBay".

Claims 2, 3, 9, 10, 16, 17, 22, 23, Vaidyanathan and Ojha fail to teach facilitating a refund request if the complaint is not resolved, including providing an interface to facilitate input of information for the refund request.

eBay teaches facilitating a refund request if the complaint is not resolved (pages 20, 23, 24), including providing an interface to facilitate input of information for the refund request (page 25). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Vaidyanathan and Ojha to include the features of eBay because Vaidyanathan teaches using the dispute resolution system to settle disputes stemming from eBay transactions (paragraphs 39, 40).

Claims 6, 13, 20, 26, 31, Vaidyanathan and Ojha fail to teach determining that the count exceeds a predetermined count value, responsive to the determining, suspending the party from participating in future transactions.

eBay teaches taking certain actions based on the number of non-completed transactions reported (page 26). According to eBay, if a bidder receives one count (first offense), the user receives a warning. If the count is 2, the bidder receives another warning. If the count is 3, the bidder receives another warning, and a 30 day

Art Unit: 3691

suspension. If the count is 4, the party is suspended from the eBay system indefinitely. Based on this policy description, it is inherent that the eBay system determines if a count exceeds 3, and responsive to this determination, the party is suspended from participating in future transactions. It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Vaidyanathan and Ojha to include the features of eBay because Vaidyanathan teaches using the dispute resolution system to settle disputes stemming from eBay transactions (paragraphs 39, 40).

Claims 29, 30, Vaidyanathan, Ojha, and eBay fail to teach the party is a buyer and the reason the transaction is not completed includes the buyer failing to send payment to the seller, or the buyer sending a payment that was fraudulent.

eBay teaches the non-paying bidder policy (page 26), which is pertinent to a transaction in which a party wins an auction but does not follow through with the payment. Official Notice is taken that not sending payment, and sending a fraudulent payment are old and well known methods of not paying someone. It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Vaidyanathan, Ojha, and eBay to include these methods of non-payment because there are a finite number of ways to not pay someone, and the eBay policy is intended to cover all of them.

Claims 32-34. Vaidyanathan, Ojha, and eBay fail to teach denying an appeal, granting an appeal, and decrementing the count of failed transactions not completed by the party responsive to the granting of the appeal.

eBay teaches an appeal process, including receiving an appeal from the party, appealing the penalty for being a non-paying bidder (page 30). Official Notice is taken that granting and denying appeals of penalties is old and well known in the art. Furthermore, in the event an appeal is granted, it is old and well known in the art to reverse or undo the penalty. It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of eBay to include these steps because they are common sense steps in handling an appeal.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Kesack whose telephone number is (571)272-5882. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 3691

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully Submitted,

Daniel Kesack  
January 31, 2008  
/D. K./  
Examiner, Art Unit 3691

/Hani M. Kazimi/  
Primary Examiner, Art Unit 3691